

PATENT  
Docket No. 415852000100  
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Tamara Venegas  
Tamara Venegas

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the application of:

Jeffrey John GORMAN

Serial No.: 09/202,035

Filing Date: December 4, 1998

For: VIRAL PEPTIDES WITH  
STRUCTURAL HOMOLOGY TO  
PROTEIN G OF RESPIRATORY  
SYNCYTIAL VIRUS

Examiner: B. Li

Group Art Unit: 1648

**RESPONSE TO ELECTION OF SPECIES**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

This is in response to the non-final Office Action dated March 7, 2001 (Paper No. 18), for which a response was due on April 7, 2001. Filed herewith is a Petition and fee for a one month extension of time, thereby extending the deadline for response from April 7, 2001 to May 7, 2001. Accordingly this response is timely filed.

As a preliminary matter, Applicant notes that the Examiner stated in the Office Action on page 3 that "[The species of peptides selected] have different molecular structure *in length* or in amino acid" (italics added). Applicant notes that all of the sequences in claim 5 represent amino acids 149-197 of the G proteins of variants of different subtypes of RSV. All of the claimed sequences (SEQ ID NOs. 1-18) are of the same length. Where no amino acid is designated in a particular position in SEQ ID NOs. 2-18, the amino acid at that position is the same as the amino acid at the same (corresponding) position in SEQ ID NO. 1.

The Examiner has required Applicant under 35 U.S.C. §121 to elect a single disclosed species.

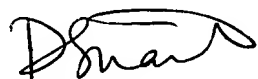
Applicant hereby elects species (a) The compound consists of amino acid sequences SEQ ID NO. 1. With this election, claims 1-15, 19-20, 22, 24 and 26 remain under consideration. Applicant expressly reserves his right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application. Applicant further requests rejoinder of withdrawn species claims upon allowance of a claim that encompasses the currently withdrawn species. MPEP 809.02(c).

Applicant requests examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 415852000100. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: May 2, 2001

By:   
Paul S. Naik  
Limited Recognition Under 37 C.F.R.  
§10.9(b)  
(copy of certificate previously submitted)

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number Of Pages In This Submission

6

Application Number

09/202,035

Filing Date

December 4, 1998

First Named Inventor

Jeffrey John GORMAN

Group Art Unit

1648

Examiner Name

B. Li

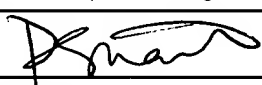
Attorney Docket No.

415852000100

**ENCLOSURES (check all that apply)**

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|---|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form - 1 page + duplicate copy for fee processing | <input type="checkbox"/> Assignment Papers (for an Application)                         | <input type="checkbox"/> After Allowance Communication to Group                            |
| <input type="checkbox"/> Fee Attached   | <input type="checkbox"/> Drawing(s)   | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences        |
| <input checked="" type="checkbox"/> Amendment / Reply - 2 pages                                       | <input type="checkbox"/> Licensing-related Papers                                       | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final  | <input type="checkbox"/> Petition   | <input type="checkbox"/> Proprietary Information   |
| <input type="checkbox"/> Affidavits/declarations  | <input type="checkbox"/> Petition to Convert to a Provisional Application               | <input type="checkbox"/> Status Letter   |
| <input checked="" type="checkbox"/> Extension of Time Request - 1 page                                | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):            |
| <input type="checkbox"/> Express Abandonment Request  | <input type="checkbox"/> Terminal Disclaimer  | 1. Return postcard   |
| <input type="checkbox"/> Information Disclosure Statement   | <input type="checkbox"/> Request for Refund   |  |
| <input type="checkbox"/> Certified Copy of Priority Document(s)                                       | <input type="checkbox"/> CD, Number of CD(s) _____                                      |  |
| <input type="checkbox"/> Response to Missing Parts/ Incomplete Application                            | Remarks   |  |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53                          |   |  |

**SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**

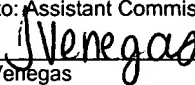
Firm or Individual Name	Morrison & Foerster LLP, 755 Page Mill Road, Palo Alto, California 94304
Signature	
Date	May 2, 2001

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Tamara Venegas

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